

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN SENATE MAY 11, 2004

SENATE BILL

No. 1368

Introduced by Senator Ortiz

February 18, 2004

An act to add Section 415.35 to the Code of Civil Procedure, relating to service of process.

LEGISLATIVE COUNSEL'S DIGEST

SB 1368, as amended, Ortiz. Substitute service of process: insurers.

Existing law provides for service of process in civil actions and proceedings by personal service or, in certain circumstances, by substitute service.

This bill would authorize substitute service upon a party's insurer, under specified circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 415.35 is added to the Code of Civil
2 Procedure, to read:

3 415.35. (a) If an insurer has acknowledged the claim and has
4 not denied coverage on the loss, in lieu of personal service on a
5 party who is insured, a copy of the summons and complaint may
6 be served by a substituted service of process upon the defendant's

1 insurer with the agent for process designated by the insurer with
2 the Secretary of State as provided in subdivision (b) of Section
3 1502 of the Corporations Code. Substitute service of process shall
4 be effected by delivering a copy of the summons and of the
5 complaint to the person who is apparently in charge of the office,
6 during the usual hours of the office, and by mailing a copy of the
7 summons and of the complaint, by registered mail, return receipt
8 requested, addressed to the person to be served at the address of the
9 insurer where a copy of the summons and of the complaint could
10 have been delivered. The insurer shall request that the insured
11 authorize the insurer to accept service of process on his or her
12 behalf within five days of receipt of substitute service of process.
13 The insurer's notice to the insured shall be ~~clear and conspicuous~~
14 *clearly and conspicuously* printed in no less than 14-point type,
15 and shall, in easily understood language, advise the insured that if
16 he or she declines to authorize the insurer to accept service, he or
17 she may be served personally at home, or at his or her place of
18 business, and that the insurer ~~will~~ *may* be obligated by law to
19 provide the plaintiff with the insured's last known address, subject
20 to any limits determined by a court pursuant to subdivision (c) of
21 Section 2017 of the Code of Civil Procedure. The notice shall
22 explain to the insured how to ask a court to limit release of his or
23 her address.

24 (b) If the insured authorizes the insurer to accept service on his
25 or her behalf, the insurer shall ~~respond to the complaint~~ *cause a*
26 *response to the complaint to be filed* on behalf of the insured within
27 30 days of the authorization. If the insured does not respond to the
28 request or does not authorize the insurer to accept service on his
29 or her behalf within 30 days of the request for authorization, the
30 insurer shall, subject to any limit to the release of address ~~sought~~
31 *obtained* by the insured pursuant to subdivision (a), immediately
32 notify the plaintiff of that fact and provide the plaintiff with the last
33 known address of the insured.

34 (c) Nothing in this section shall affect any policy defenses that
35 may exist as between the insured and the insurer.

